

## REMARKS

### Pending Infringement Litigation

This Reissue Application involves an issued patent which is the subject of a pending  
5 infringement action in Federal District Court (Newark, New Jersey).

Applicant includes with this REISSUE APPLICATION an INFORMATION DISCLOSURE  
STATEMENT accompanied by copies of all cited references. The handwritten annotations on  
the copies of the references are not Applicant's, and Applicant is not bound by any  
handwritten annotations. Copies of references produced to the Applicant by the accused  
10 infringer are believed true and correct copies, albeit Applicant lacks first-hand knowledge to  
verify this. Note that certain of the references provided are not competent as "prior" art,  
because they post-date the latest date for prior art citable. Applicant apologize in advance  
for any inconvenience imposed on the Office by the volume of references provided, but  
Applicant has represented to the Court hearing the pending infringement litigation that all of  
15 this material would be provided to the Office.

In the pending infringement action, the alleged infringer says, "The Szynalski patent  
specification itself, at column 2, lines 15-43 and at column 3, lines 30-60, includes almost  
verbatim, the identical wording found in Gorayeb's 1996 workbook" and "Upon information  
and belief, the material in the Szynalski patent specification, at column 2, lines 15-43 and at  
20 column 3, lines 30-60 was copied from Gorayeb Seminar, Inc.'s "Stop Smoking" workbook.  
DEFENDANTS' ANSWER at 59-60 (Civ. 03-1051 (KSH), April 10, 2003). The Gorayeb  
workbook referred to is included in the attached INFORMATION DISCLOSURE STATEMENT.  
Applicant respectfully believes that, assuming the Defendants' allegations are true, they are  
irrelevant; that is, assuming Applicant did copy the cited portion of the Specification, copying  
25 this material does not affect the validity nor enforceability of the patent claims. Applicant,  
however, respectfully requests that the Examiner make an independent evaluation of this  
issue and identify any potential problems.

### Claim Amendments

30 These claim amendments must be accompanied by an explanation of the support in  
the disclosure. See 37 C.F.R. § 1.173(c). The following terms in the new claims are  
supported by the Specification as, *inter alia*, listed below:

Claim Term	Support	Comments
Ephedrine	col. 11, ln 42 et seq.	
Mahuang	col. 11, ln 42 et seq.	
caffeine	Amendment (19 Sept. 2001)	Caffeine is known in the art as a stimulant.
lobelia	col. 7, ln 17 et seq.	
wood betony	col. 7, ln 49 et seq.	
gotu kola	Col. 8, ln 41 et seq.	
kava kava	Col. 8, ln 48 et seq.	
valerian	Col. 9, ln 18 et seq.	
passionflower	Col. 9, ln 32 et seq.	
ginseng root	Col. 11, ln 27 et seq.	
peppermint	Col. 8, ln 57 et seq.	
ginger root	Col. 9, ln 36 et seq.	
licorice root	Col. 7, ln 67 et seq.	
gynema sylvestre	Col. 10, ln 60 et seq.	
inositol	Col. 10, ln 46 et seq.	
vanadium	Col. 10, ln 54 et seq.	
chromium	Col. 9, ln 59 et seq.	

5 The Examiner is reminded that the claim term “anti-smoking drug” means a substance with antidepressant or anxiolytic activity. *See* AMENDMENT at page 5 (19 Sept. 2001). It is not limited to pharmaceuticals; to the contrary, the Specification specifically teaches a variety of *non*-pharmaceutical substances with antidepressant activity. The claim term does, however, require the substance have antidepressant or anxiolytic activity; anti-smoking products which simply make cigarettes taste bad, for example, are not within the scope of the term.

**SUMMARY**

Applicant respectfully believes the application is in condition for prompt examination and allowance.

Respectfully submitted,

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